

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Catherine and Anthony Peters, Jr. )  
Dist. 1, Map 99M, Group B, Control Map 99M, ) Cumberland County  
Parcel 15 )  
Residential Property )  
Tax Year 2007 )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$20,000	\$159,700	\$179,700	\$44,925

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 5, 2007 in Crossville, Tennessee. In attendance at the hearing were Anthony Peters, Jr., the appellant, Cumberland County Property Assessor's representative Mary Cox, and Fred Wilson, an appraiser with the Division of Property Assessments.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a single family residence located at 33 Bob White Drive in Crossville, Tennessee.

The taxpayer contended that subject property should be valued at \$157,500. In support of this position, the taxpayer testified that his home and the home located at 873 Taylors Chapel Road are identical. The taxpayer argued that subject property should be appraised assuming 1,792 square feet like the Taylors Chapel Road home rather than 1,824 square feet. In addition, the taxpayer asserted subject property should be appraised at \$157,500 in accordance with the March 27, 2007 sale of the Taylors Chapel Road property. Finally, the taxpayer maintained that the 2007 countywide reappraisal program caused the appraisal of subject property to increase by a greater amount than other properties in the area.

The assessor contended that subject property should be valued at \$179,700. In support of this position, three comparable sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."



After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$179,700 based upon the presumption of correctness attaching to the decision of the Cumberland County Board of Equalization.

Since the taxpayer is appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

#### Final Decision and Order at 2.

The administrative judge finds that the March 27, 2007 sale of the home located at 873 Taylors Chapel Road cannot provide a basis of valuation for at least three reasons. First, since January 1, 2007 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a), sales after that date are normally irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that “[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” Final Decision and Order at 3. Second, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the



market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

In this case, no evidence whatsoever was introduced concerning the circumstances surrounding the sale. Third, the assessor's sales suggest that subject property would command in excess of \$157,500 in an arm's length transaction.

The administrative judge finds that in Tennessee outside measurements are utilized for determining square footage. The administrative judge finds that the 32 square feet in dispute boils down to whether subject property is 56 x 32 or 57 x 32. The administrative judge finds that Mr. Peters has not actually measured his residence. The administrative judge finds that two purportedly identical homes often differ in minor ways. Indeed, the "Real Estate Assessment Data" sheets introduced by the taxpayer indicate on page 2 that the subject property and the home located at 873 Taylors Chapel Road are *not* identical as summarized in the "building areas" portion of the sheets.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.<sup>1</sup> The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$20,000	\$159,700	\$179,700	\$44,925

<sup>1</sup> See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.




It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of September, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Anthony Peters, Jr.  
Ralph Barnwell, Assessor of Property